Annex 10

Summaries of Direct Investigations

Education Bureau (“EDB”)

Case No. OMB/DI/180
Support Services for Students with Specific Learning Difficulties
(Investigation declared on 14 February 2008 and completed on 23 March 2009)

Background

This was the third of a series of direct investigations on support for students with Specific Learning Difficulties (“SpLD”). It focused on EDB’s measures for schools in the public sector to provide support services to SpLD students.

Our Findings

EDB Support to Schools

Assessment Tools and Resource Packages

2. EDB has developed:

(a) assessment tools for early identification of SpLD students; and

(b) guidelines, teaching and learning kits for teachers to help students improve their literacy and learning skills.

Additional Funds and Resources

3. EDB provides additional resources under different support schemes, including funds and manpower, to schools with students having SpLD, other special educational needs or significantly low academic achievement.

Professional Services

4. EDB sends its own or outside educational psychologists to serve public sector schools on a need basis. The Bureau also organises professional development seminars for school personnel and operates a Special Education Resource Centre.

Teacher Training

5. Hong Kong Institute of Education is the only institute offering a compulsory module on special educational needs in pre-service teacher training.

6. For serving teachers, EDB has put in place a five-year professional development framework, consisting of structured courses on special educational needs at three levels: basic (30 hours), advanced (90 hours) and thematic (60 hours). EDB expects 10% of teachers to have completed basic training by 2012/13.

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EDB Monitoring and Feedback Systems

School Self-Evaluation and External Review

7. Under school-based management, schools are required to evaluate their own performance in catering for student diversity. EDB conducts external school review to validate self-evaluation by schools and to provide them with feedback and suggestions for improvement.

Regular School Visits

8. EDB officers make about three inspection visits each school year to ensure that schools are providing proper support to students with special educational needs.

Specific Requirements for Schools

9. Schools receiving additional funds and resources are required to:

(a) prepare separate accounting for the funds;

(b) publicise the measures taken to support students with special educational needs; and

(c) devise a learning support plan for each of such students.

Redress System

10. EDB has established a mediation mechanism to handle complaints and grievances from parents about education opportunities for students with special educational needs.

Our Comments

11. EDB has been making substantial efforts and injecting additional funds and other resources into the education system to improve services for students with SpLD. EDB support is generally well conceived. However, we have identified a number of issues for attention and improvement.

Funding and Resource Support

12. Under EDB's support schemes, funds and manpower are allocated to schools on top of basic and other EDB provision. Schools are encouraged to pool all available resources holistically and deploy them flexibly for optimal cost-effectiveness.

13. This "global" approach, however, risks overlooking the specific needs and goals in respect of individual students who do not conform to the needs and goals of the "mainstream" student body. Some parents are highly suspicious that funds intended for redressing special educational needs have been used by schools for other priorities. Openness and transparency on school policy and measures for supporting students with special educational needs are called for.

14. However, publicity on support measures seems to have been left entirely to the school management. Not surprisingly, practices differ among schools. There is also no timeline for schools to develop a more transparent policy.

Monitoring and Feedback Systems

15. EDB's additional funds and resources for support services are not earmarked for individual students or groups, so their effective utilisation depends entirely on how enlightened, liberal and accountable the school management wants to be.

16. Parental involvement is crucial to the effectiveness of schools' support measures for feedback on whether the measures are effective. Moreover, parents can provide home help to reinforce their children's learning. However, practice for promoting parental involvement varies significantly from school to school.

17. Some parents dare not stand up to the school management in their quest for support for their children. EDB records show that only one parent had used its mediation service from 2005/06 to 2007/08.

Professional Services

18. Shortage of educational psychologists is a chronic problem in Hong Kong. In 2007/08, on average, each educational psychologist had to carry over 140 cases of students with special educational needs.

Teacher Training

19. Not all teacher education institutes offer prospective teachers training in special educational needs as a matter of their curriculum. EDB's in-service teacher training programme will, therefore, always be "catching up" and rather slowly at that.

20. At present, only 27% of primary school teachers and 11% of secondary school teachers in the public sector have received basic training in SpLD. EDB's target of providing only 10% of teachers with basic training in special educational needs through structured courses by 2012/13 leaves much to be desired.

Recommendations

21. The Ombudsman made ten recommendations for EDB, including:

(a) to step up efforts and formulate a timeline for enhancing openness and transparency among schools on the latter's policy, resources and measures for supporting students with SpLD and other special educational needs;

(b) to require, and help, all schools to enhance parental involvement;

(c) to enhance publicity on the Bureau's mediation service;

(d) to probe into schools suspected of having recurrent or systemic problems;

(e) to consider introducing scholarships or bursaries for professional training in educational psychology, with a requirement for service with Government over a specified period;

(f) to explore the possibility of making training in special educational needs compulsory in all pre-service teacher training programmes; and

(g) to review the target for basic training in SpLD for teachers.

Efficiency Unit ("EU")

Case No. OMB/DI/161
Effectiveness of the Integrated Call Centre in Handling Complaints
(Investigation declared on 17 May 2007 and completed on 23 June 2008)

Background

Since our direct investigation in 2003 into the overall operation of the Integrated Call Centre ("ICC") to examine its effectiveness in handling complaints against Government departments, we had continued to receive complaints about its complaint-handling. Concerned that this might suggest new or continuing systemic deficiencies in ICC's arrangements, The Ombudsman decided to conduct a follow-up investigation on the subject.

Service Coverage

2. Managed and supervised by EU, ICC was set up in July 2001 to provide a single point of contact round-the-clock for enquiries, complaints and suggestions about services of Government departments participating in ICC service. The ultimate aim was to replace the myriad of departmental hotlines, fax numbers and email addresses with a Citizen's Easy Link 1823.

3. At the time of investigation, ICC service covered 20 departments with a total of 104 hotlines, fax lines and emails. ICC also kept a full register of complaints received through all channels for three client departments: Highways Department, Leisure and Cultural Services Department and Transport Department.

Demand for ICC Service

4. In the four years 2004 to 2007, citizens' demand for ICC service increased markedly, from 1.8 million in 2004 to 3.1 million in 2007.

5. Despite EU's attempt to increase the number of ICC staff and to devise new measures to cope with increasing demand, staff turnover and manpower shortage remained a major concern. EU estimated that ICC would be operating to full capacity of 230,000 calls a month while fulfilling all the performance pledges within 2008.

6. In 2007, ICC had to reject six departments' requests for subscription. Some client departments, e.g. the Post Office ("PO"), once considered dropping out of the ICC system because ICC could not extend its service to cover all PO's branch offices.

Overall Performance

7. In the four years 2004 to 2007, ICC was unable to achieve its overall performance pledge of answering at least 80% of calls within 12 seconds, managing only to answer within the timeframe 74% of the calls in 2004, 62% in 2005, 78% in 2006 and 68% in 2007. Nonetheless, ICC managed to meet other performance pledges, namely, to resolve at least 90% of calls at first point of contact and to have not more than 10% of the calls abandoned.

ICC's Role in Handling Complaints

8. Complaints made up about one-tenth of all types of cases answered by ICC (i.e. enquiries, complaints, suggestions and compliments). ICC website, as ICC's main source of public information, did not explain its precise role in this area. It merely stated ICC as handling and processing complaints for the participating departments and providing an effective platform for resolving cross-departmental complaints.

Our Observations and Opinions

Scope of Service

9. Covering only one-third of the 58 Government departments and agencies, ICC's scope of service did not accord with its name or its ultimate goal of an integrated one-stop service, namely to replace all departmental hotlines with 1823. Nor did it have a concrete plan to achieve it.

10. ICC service was limited and patchy, not taking over all the hotline functions even of the 20 client departments. To the majority of Government departments, ICC essentially provided only directory service. Meanwhile, ICC was already operating at full capacity.

Capability

11. There was incongruence between ICC's capability and its accountability. Neither ICC nor EU was vested with the authority or had the expertise to handle substantive complaints, to command a department to take ownership of a complaint or to take departments

to task for deviating from agreed timeframes and arrangements. While totally dependent on departments for referral instructions, ICC was heavily relied on by citizens to identify responsible departments when no department accepts responsibility for a complaint. This resulted in significant delay and inaction.

Capacity

12. ICC's continued manpower shortage has adversely affected its operation: failure to meet its long-term goal, delay, continued failure to meet its pledge and risk of existing clients opting out.

13. We consider ICC's endeavour to act as central repository for three departments, despite its tight manpower situation, over-ambitious and arguably beyond its core functions.

Other Problems in Handling Complaints

Monitoring and Feedback

14. Our study revealed that its monitoring mechanism did not significantly reduce the time departments spent in identifying ownership for complaints. Moreover, ICC did not systematically gauge the compliance rate of the specific action standards and timeframes or complainant satisfaction.

Mode of Operation and Supervision of Cases

15. ICC's current mode of operation required individual agents to review records on screen for the status and development of complaints within a short time. This was difficult for complicated complaints and cases for urgent attention.

Public Perception

16. The way ICC publicised its role could easily mislead complainants to think that ICC may adjudicate and pass judgment on their cases.

Indirect Communication

17. ICC's handling complaints on behalf of departments shielded the latter from direct contact with complainants. This is not only cumbersome and irksome for complainants, but may also cause defective or deficient delivery and delay.

Conclusions

18. We believe in the concept of an integrated one-stop call service for public convenience and Government efficiency. Overall, we commend ICC's performance as a call centre, particularly its continuous and earnest efforts to sustain service standards and strive for improvement, notwithstanding the high call volume and manpower constraint.

19. Considering its track record of resolving over 90% of nearly 10,000 calls each day at first point of contact, ICC is well placed to be a truly integrated call centre covering all Government departments and even public bodies for enquiries and simple complaints.

20. However, the handling of more complex complaints – especially those with multiple departments – leaves much to be desired. ICC inherently lacks the capability to coordinate among Government departments in handling issues involving multiple departments.

21. The current situation, where ICC continues to fall short of its goal of serving all departments, is misleading to the public, unsatisfactory in principle and defeats ICC's value and purpose as an all-time access point transcending departmental boundaries.

22. ICC has to choose whether its scope of service encompasses the entire Government or some departments. Meanwhile, until the Administration has decided ICC's scope of service in the long term, it should improve ICC's current operations, especially in handling complaints.

Recommendations

23. The Ombudsman made 15 recommendations for EU and ICC including:

Scope of service (Long-term)

(a) to review its *modus operandi* and to redirect its resources to offer a "one-stop service" for public sector directory, general enquiries and simple complaints. If not, to consider revising its name to accord with its limited service and to avoid unrealistic public expectations;

Operational and technical improvements (Short-term)

(b) to initiate discussion with bureaux to resolve problems with cross-departmental complaints;

(c) to alert and ask at once all departments involved to discuss and establish ownership among themselves, once a complaint case reveals unclear demarcation of responsibility among departments;

(d) to enforce the monitoring mechanism more proactively by escalating promptly any complaint, for which no department would accept responsibility, 14 days after receipt of the complaint;

(e) to gauge the compliance rates of the various timeframes and departmental performance pledges and to provide such data to Heads of Departments for monitoring purpose;

(f) to regularly survey the satisfaction level of client and non-client departments and complainants;

(g) to spell out in ICC website its role and service, procedures and timeframes and to request departments to clarify their relationship with ICC in departmental publicity measures; and

(h) to request departments to make direct contact with complainants and fellow-departments where complex or multiple issues are concerned.

Food and Environmental Hygiene Department ("FEHD"), Home Affairs Department ("HAD") and Lands Department ("Lands D")

Case No. OMB/DI/163
Street Management
(Investigation declared on 1 November 2007 and completed on 18 December 2008)

Street Management and District Administration

We examined three issues of street management:

- indiscriminate placing of skips at roadside;
- illegal parking of bicycles; and
- obstruction and nuisance from on-street promotional activities.

These involve several departments and require coordination.

2. Street management problems should come under Government's District Administration Scheme. In 2007, the Administration set up a Steering Committee on District Administration ("SCDA") to resolve such district management issues centrally. Difficult issues can be brought to the personal attention of the Chief Secretary for Administration.

Roadside Skips

Observations

3. According to Lands D procedures, staff should conduct an inspection upon receiving a complaint. If a skip is found, staff should post a notice giving the owner at least one day for removal. If the skip still remains after the deadline, Lands D should remove it within three working days.

4. Statistics since 2006/07 show that about 40% of Lands D inspections in fact took place over three working days after receipt of complaints, while some 20% took over five working days before re-inspection. Lands D's delay has little deterrent effect on offenders.

5. The construction and renovation industry needs to use skips but no lawful avenue exists for placing them at roadside. In 2007, SCDA invited Lands D to consider setting up a permit system for skips. Lands

D has explored various options but has yet to report to SCDA. The question of which department should be responsible for controlling skips remains a sticking point.

Recommendations

6. The Ombudsman made six recommendations, including:

(a) SCDA to reconvene promptly;

(b) Lands D to report to SCDA the results of its study on the proposed permit system; and

(c) Lands D to tighten its timeframe for inspection and re-inspection, removal and confiscation of skips.

Illegal Parking of Bicycles

Observations

7. Illegally parked bicycles are usually cleared through joint operations initiated by HAD's District Offices ("DOs"), involving FEHD, Lands D and the Police. No department would take responsibility for bicycles in public transport interchanges ("PTIs"); enforcement is on ad hoc basis. In designated bicycle parks, a common problem is bicycles being abandoned, left unattended for a long time or overstaying.

8. Without more durable and innovative solutions, the situation is unlikely to improve. DOs have a leading role to formulate a comprehensive strategy.

9. The SCDA meeting in November 2007 agreed that HAD should explore the feasibility of immediate removal of illegally parked bicycles. However, the outcome is still pending.

10. As bicycles are a popular means of transport in the New Territories, parking facilities at convenient locations are necessary. The Administration should continue to identify sites to ease the shortfall in such provision so that cyclists would not be forced to park their bicycles illegally or have any excuse to do so.

Recommendations

11. The Ombudsman made seven recommendations, including:

(a) DOs, in consultation with District Councils and other departments, to formulate a comprehensive strategy under the District Administration Scheme;

(b) the Administration to identify sites for bicycle parking facilities;

(c) HAD to expedite its feasibility study on immediate removal of illegally parked bicycles;

(d) HAD and other departments to work out an inter-departmental agreement for clearing bicycles in PTIs; and

(e) HAD, in consultation with relevant other departments and district bodies, to explore ways of managing bicycle parks to encourage quicker turnover and deter prolonged parking.

On-street Promotional Activities

Observations

12. FEHD has powers to tackle those on-street promotional activities involving illegal hawking of goods, obstruction to cleansing operations and serious obstruction. For easy-mount stands, FEHD can take action against them for unauthorised display of "bills or posters". The stands can be seized together with the posters as evidence. FEHD has started to take prosecution action under a pilot scheme.

13. The Administration does not have a policy to tackle on-street promotional activities involving illegal hawking of services. It argues that some tolerance has to be given to on-street promotional activities, in order to maintain the employment opportunities provided by such activities. However, this argument may well apply to illegal hawking of goods with better justification since those employing mobile or easy-mount stands in fact tend to be major business corporations well able to afford other means of advertising and offer other modes of employment.

14. FEHD has difficulty in enforcement due to the mobile nature of on-street promotional activities. Its initiative to take action against easy-mount stands is not a full solution for illegal hawking of services.

Recommendations

15. The Ombudsman made six recommendations, including:

(a) the Administration to reconsider its stance on on-street promotional activities;

(b) FEHD to acquire statutory powers against illegal hawking of services; and

(c) Government in general, and FEHD in particular, to enhance public awareness of the problems caused by on-street promotional activities and to publicise convicted cases for deterrent.

Lands Department ("Lands D")

Case No. OMB/DI/177
Control of Roadside Banners
(Investigation declared on 19 September 2008 and completed on 15 December 2008)

Introduction

Lands D manages a scheme for the Display of Roadside Non-Commercial Publicity Materials ("the Scheme"). Government departments, Legislative

Council ("LegCo") Members, District Councils ("DCs"), DC Members and certain non-profit making organisations may put up roadside banners at designated spots for display for specified periods.

2. This investigation covered, *inter alia*, the unclear rules and misuse of the Scheme.

The Scheme

3. Under the Scheme, Lands D approves applications from organisations for displaying banners case by case, each for about two months. In contrast, LegCo and DC Members are allocated spots for the entire tenure of their office and their banners are not subject to prior vetting by Lands D. The number of designated spots totals 21,821. Lands D has published Guidelines for the Scheme, which govern, *inter alia*, the approved contents of banners.

Observations

Absence of Clear Statement of Objective

4. Roadside banners impact on the rights of citizens to traffic safety, unimpeded movement and a pleasant environment. Use of such banner display spots by the parties concerned is a privilege which ought to be justified on grounds of public interest. However, the Scheme lacks a clear statement of its objective to demonstrate such justification.

Lack of Rules to Avoid Transfer of Privilege

5. Any individual or organisation allocated a banner spot enjoys a privilege at public expense. Such privilege should not be regarded as a freely disposable proprietary right. However, there are no clear rules to prohibit transfer or "loaning out", nor a specific requirement for the allocatee to be conspicuously identified.

Loose Guidelines on Banner Contents

6. The Guidelines on the approved contents of banners are too loosely worded as to be useful public information. Nor can they adequately provide guidance for enforcement. For example, "events of public interest" and "information of general interest and benefit to the public" are all wide open to interpretation and may easily result in contention.

Inadequate Public Consultation

7. Lands D had consulted LegCoand DCs on the Scheme, but had not taken account of the fact that all LegCo and DC Members were beneficiaries of the Scheme and there could be a question of perceived bias.

Proposal Unjustifiably Shelved

8. Lands D had considered replacing the banner spots at central dividers of roads or close to pedestrian crossings with spots less prone

to traffic accidents. However, it subsequently dropped the proposal as it considered LegCo and DCs unlikely to agree to give up these prime sites. This Office found it unfair of Lands D to assume that LegCo and DC Members would not accept the proposal, which was based on self-evident public interest.

Recommendations

9. The Ombudsman recommended that:

Lands D in conjunction with the relevant bureaux

(a) articulate the objective of the Scheme for public information;

Lands D

(b) revise the rules for proper administration of the Scheme, including –

- prohibition of transfer of allocated spots
- clearly visible acknowledgement, on the banner, of the allocatee
- clear indication what banner contents may be allowed;

Lands D with the help of the Home Affairs Department

(c) seek views from the public at large or interest groups before consulting LegCo and DCs; and

(d) reconsider the proposal of replacing or cancelling the banner spots posing traffic hazard.

10. Lands D generally accepted these recommendations.

Leisure and Cultural Services Department ("LCSD")

Case No. OMB/DI/186
Free Admission Scheme for Leisure Facilities from July to September 2008
(Investigation declared on 11 December 2008 and completed on 24 March 2009)

The Scheme

The Scheme was announced by the Chief Executive in his 2007-08 Policy Address to highlight the 2008 Beijing Olympic Games as a main theme in promoting national education and encouraging community sports. It had over 3 million sessions available for free use at 150 venues and attracted some 12.8 million attendances. These included over 7.62 million to swimming pools and 5 million to land-based facilities. Almost all facilities registered increase in usage compared to the same period in 2007.

2. However, wastage was serious in some cases. Land-based facilities had an absence rate of original hirers of 38%. The no-show rate of crafts at water sports centres reached 54%. Our spot check of certain land-based facilities of a sports centre revealed even 74% and 78% no-show rate on some days.

Observations and Opinions

Planning and Execution

3. **Publicity.** As LCSD did not anticipate the need for changes, its publicity plan could not reflect its interim measures to address the public criticism after commencement and to promote the less popular facilities.

4. **Monitoring.** LCSD's initial plan to collate statistics monthly was an under-estimation of the scale of wastage due to no-show and low alertness to the need for close monitoring of demand. It promptly changed to daily monitoring since 1 July 2008.

5. **Cancellation of Bookings.** LCSD introduced a cancellation form from 18 July 2008. However, the cancellation arrangements were fraught with deficiencies and not user-friendly, resulting in low cancellation incidence: 420 cancellations, or 0.05%, *versus* about 800,000 no-shows.

6. **Training Sessions.** For facilities such as fitness rooms, sport climbing walls and crafts at water sports centres, booking rates were low as proof of proficiency was required. Corresponding training, with proper promotion, might have helped to boost interest and usage in these activities.

7. **Public Suggestions for Improvement**. On suggestions from the public for improving the arrangements, LCSD considered them not realistic, or worthwhile, to be introduced mid-way during the Scheme. However, they were well worth studying for similar initiatives in the future.

Revised Scheme

8. To encourage the public to exercise and to maximise use of under-utilised facilities, we see a case for a scheme on a smaller scale and on a regular basis, not *ad hoc*. A good example is the free access to LCSD museums every Wednesday. In exploring other options, LCSD should have measures to guard against abuse and wastage.

Recommendations

9. The lessons learned from the Scheme should be valuable reference for the planning and execution of similar initiatives. The Ombudsman made nine recommendations to LCSD, covering publicity planning and execution, monitoring of implementation, user-friendly arrangements for cancellation and safeguards against abuse.

10. LCSD has accepted all the recommendations.

Summaries of Direct Investigations

Social Welfare Department ("SWD")

Case No. OMB/DI/175
Prevention of Abuse of Special Grants under the Comprehensive Social Security Assistance ("CSSA") Scheme
(Investigation declared on 14 February 2008 and completed on 18 December 2008)

Background

The CSSA Scheme is meant to be a safety net for people in genuine hardship. On top of standard rates to cover basic needs, special grants are issued for specific needs.

2. Standard special grants cover five categories of expenses: housing and related grants, family grants, medical and rehabilitation grants, child care grants and school grants. Discretionary special grants enable recipients to avoid such exceptional hardship as homelessness, family breakdown and lives at risk.

3. Cases examined by this Office indicated SWD's haphazard processing of applications for special grants, which would unfairly drain resources meant to help those in genuine hardship.

Observations and Comments

4. **Cases of meeting genuine need.** We used two cases to illustrate how the Scheme can function well as a safety net and where the applicants would have been in extreme hardship without CSSA.

5. **Cases of ineffective reviews.** We highlighted three cases where rent allowance had been obtained by deception using forged rental receipts. These cases had gone on for years despite biannual reviews. Yet another case of deception involved 45 forged receipts for adult diapers within four years, during which SWD had failed to discover the fraud despite 17 reviews.

6. **Case of approving applications without due care or reason.** In this blatant case of abuse, SWD had issued grants to the applicant for replacing eye-glasses six times within three years on grounds of progression of short-sightedness by only 0.25 degree or damage of glasses by accident or in a fight. While a pair of glasses cost only $530 on average, the applicant was granted $1,000 each time, the maximum amount for approval by SWD frontline officers. The applicant had also been granted cash advance for dental treatment four times without attending any such treatment; and defaulted on rent payment for public housing for ten months while receiving a rent allowance. In effect, SWD had been offering him ready cash or interest-free loans totalling $21,050, on top of the standard rate and other special grants.

7. **Case of rejecting unreasonable claim.** In this case, SWD refused a discretionary special grant to cover loss of cash, because the applicant still had $1,800 in his bank account. He then disposed of the money and applied again for the grant. SWD, quite rightly, still rejected his application.

8. **Cases of giving away easily.** We noted a case where the applicant claimed to have been robbed of $7,600 and another case claiming to have lost money three times, totalling $5,200. SWD gave in readily to the applicants' refusal of assistance in kind and approved discretionary special grants without even questioning why they had carried so much cash in the first instance.

Conclusion

9. Some of the above cases reflected an abandonment of common sense and lack of practical judgment among some in SWD. Meanwhile, the community expects the publicly funded CSSA Scheme to take care of the needy and the vulnerable and to guard against abuse. In approving special grants and conducting checks, SWD staff should, therefore, exercise greater care and better judgment.

Recommendations

10. The Ombudsman made 11 recommendations for more effective administration of special grants, including:

- (a) involving senior officers more in dubious or complicated cases;
- (b) verifying supporting documents more carefully;
- (c) capping the quantity and price of eye-glasses; and
- (d) settling costs by direct payment more readily in doubtful cases.

11. SWD accepted these recommendations.